

SENATE BILL No. 503

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-6; IC 8-2.1; IC 9-25-4-5; IC 36-9-2-4.

Synopsis: Intrastate taxicabs. Expands the definition of taxicab for purposes of: (1) refunds for gasoline tax paid on gasoline used for the operation of taxicabs; and (2) exemption from the special fuel tax. Expands the definition of taxicab for purposes of: (1) exception from regulation as a common carrier for the transportation of passengers for compensation; and (2) compliance with certain federal regulations concerning motor carriers of persons. Requires a minimum amount of financial responsibility of \$1,000,000 to be carried on certain motor vehicles being used as taxicabs. Authorizes certain units of government to regulate certain motor vehicles being used as taxicabs.

Effective: July 1, 2009.

Stutzman

January 15, 2009, read first time and referred to Committee on Homeland Security, Transportation & Veterans Affairs.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

SENATE BILL No. 503

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-6-1.1-103, AS AMENDED BY P.L.122-2006,
2 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2009]: Sec. 103. As used in this chapter:

4 (a) "Administrator" means the administrative head of the
5 department of state revenue or the administrator's designee.

6 (b) "Dealer" means a person, except a distributor, engaged in the
7 business of selling gasoline in Indiana.

8 (c) "Department" means the department of state revenue.

9 (d) "Distributor" means a person who first receives gasoline in
10 Indiana. However, "distributor" does not include the United States
11 or any of its agencies unless their inclusion is permitted under the
12 Constitution and laws of the United States.

13 (e) "Licensed distributor" means a person holding a valid
14 distributor's license issued by the administrator.

15 (f) "Marine facility" means a marina or boat livery.

16 (g) "Gasoline" means:

17 (1) all products commonly or commercially known or sold as

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gasoline, including casinghead and absorption or natural gasoline, regardless of their classifications or uses; and

(2) any liquid, which when subjected to distillation of gasoline, naphtha, kerosene, and similar petroleum products with American Society for Testing Materials Designation D-86, shows not less than ten percent (10%) distilled (recovered) below three hundred forty-seven degrees Fahrenheit (347 degrees F) or one hundred seventy-five degrees Centigrade (175 degrees C), and not less than ninety-five percent (95%) distilled (recovered) below four hundred sixty-four degrees Fahrenheit (464 degrees F) or two hundred forty degrees Centigrade (240 degrees C).

However, the term "gasoline" does not include liquefied gases which would not exist as liquids at a temperature of sixty degrees Fahrenheit (60 degrees F) or sixteen degrees Centigrade (16 degrees C), and a pressure of fourteen and seven-tenths (14.7) pounds per square inch absolute, or denatured, wood, or ethyl alcohol, ether, turpentine, or acetates, unless such product is used as an additive in the manufacture, compounding, or blending of a liquid within subdivision (2) or is otherwise blended with a liquid described in subdivision (2) (including ethanol used in E85), in which event only the quantity so used is considered gasoline. In addition, "gasoline" does not include those liquids which meet the specifications of subdivision (2) but which are especially designated for use other than as a fuel for internal combustion engines.

(h) "Motor vehicle" means a vehicle, except a vehicle operated on rails, which is propelled by an internal combustion engine or motor and is designed to permit its mobile use on public highways.

(i) "Person" means a natural person, partnership, firm, association, corporation, limited liability company, representative appointed by a court, or the state or its political subdivisions.

(j) "Public highway" means the entire width between boundary lines of every publicly maintained way in Indiana including streets and alleys in cities and towns when any part of the way is open to public use for vehicle travel.

(k) "Taxable marine facility" means a marine facility located on an Indiana lake.

(l) "Taxicab" means a motor vehicle: ~~which:~~

(1) that is:

~~(+)~~ **(A)** designed to carry not more than seven (7)

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individuals, including the driver;

~~(2)~~ (B) held out to the public for hire at a fare regulated by municipal ordinance and based upon length of trips or time consumed;

~~(3)~~ (C) not operated over a definite route; and

~~(4)~~ (D) a part of a commercial enterprise in the business of providing taxicab service; or

(2) that is:

(A) designed to carry not more than sixteen (16) individuals, including the driver;

(B) held out for hire to members of the public who do not operate motor vehicles because of health or religious reasons;

(C) not operated over a definite route;

(D) a part of a commercial enterprise in the business of providing taxicab service; and

(E) operated intrastate only.

(m) "Terminal" means a marine or pipeline gasoline facility.

(n) "Metered pump" means a stationary pump having a meter that is capable of measuring the amount of gasoline dispensed through it.

(o) "Billed gallons" means the gallons indicated on an invoice for payment to a supplier.

(p) "Export" for gasoline and fuels taxed in the same manner as gasoline under the origin state's statutes means the sale for export and delivery out of a state by or for the seller that is:

(1) an export by the seller in the origin state; and

(2) an import by the seller in the destination state.

(q) "Import" for gasoline and fuels taxed in the same manner as gasoline under the origin state's statutes means the purchase for export and transportation out of a state by or for the purchaser that is:

(1) an export by the purchaser in the origin state; and

(2) an import by the purchaser in the destination state.

(r) "Rack" means a dock, platform, or open bay:

(1) located at a refinery or terminal; and

(2) having a system of metered pipes and hoses to load fuel into a tank wagon or tank transport.

(s) "E85" means a fuel blend nominally consisting of eighty-five percent (85%) ethanol and fifteen percent (15%) gasoline (as described in subsection (g)(2)) that meets American Society for Testing and Materials standard specification 5798-99 for fuel

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ethanol for automotive spark-ignition engines (Ed75Ed85).

SECTION 2. IC 6-6-2.5-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 30. (a) The following are exempt from the special fuel tax:

(1) Special fuel sold by a supplier to a licensed exporter for export from Indiana to another state or country to which the exporter is specifically licensed to export exports by a supplier, or exports for which the destination state special fuel tax has been paid to the supplier and proof of export is available in the form of a destination state bill of lading.

(2) Special fuel sold to the United States or an agency or instrumentality thereof.

(3) Special fuel sold to a post exchange or other concessionaire on a federal reservation within Indiana. However, the post exchange or concessionaire shall collect, report, and pay quarterly to the department any tax permitted by federal law on special fuel sold.

(4) Special fuel sold to a public transportation corporation established under IC 36-9-4 and used for the transportation of persons for compensation within the territory of the corporation.

(5) Special fuel sold to a public transit department of a municipality and used for the transportation of persons for compensation within a service area, no part of which is more than five (5) miles outside the corporate limits of the municipality.

(6) Special fuel sold to a common carrier of passengers, including a business operating a:

(A) taxicab (as defined in ~~IC 6-6-1.1-103(1)~~ **IC 6-6-1.1-103(1)(1)**) and used by the carrier to transport passengers within a service area that is not larger than one (1) county, and counties contiguous to that county; **or**

(B) taxicab (as defined in **IC 6-6-1.1-103(1)(2)**).

(7) The portion of special fuel determined by the commissioner to have been used to operate equipment attached to a motor vehicle, if the special fuel was placed into the fuel supply tank of a motor vehicle that has a common fuel reservoir for travel on a highway and for the operation of equipment.

(8) Special fuel used for nonhighway purposes, used as heating oil, or in trains.

(9) Special fuel sold by a supplier to an unlicensed person for export from Indiana to another state and the special fuel has been dye additized in accordance with section 31 of this chapter.

(10) Sales of transmix between licensed suppliers.

(b) The exemption from tax provided under subsection (a)(4)

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through (a)(7) shall be applied for through the refund procedures established in section 32 of this chapter.

(c) The department shall provide information to licensed suppliers of the destination state or states to which exporters are authorized to export.

(d) Subject to gallonage limits and other conditions established by the department, the department shall provide for refund of the tax imposed by this chapter to a wholesale distributor exporting undyed special fuel out of a bulk plant in this state in a vehicle capable of carrying not more than five thousand four hundred (5,400) gallons if the destination of that vehicle does not exceed twenty-five (25) miles from the border of Indiana.

SECTION 3. IC 8-2.1-17-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16. "Taxicab" means a motor vehicle:

(1) that:

~~(1)~~ (A) is designed and constructed to accommodate and transport not more than six (6) passengers in addition to the driver;

~~(2)~~ (B) does not operate over any definite and designated routes within the corporate boundaries of a city or town and the suburban territory of a city or town; and

~~(3)~~ (C) transports passengers to the destination designated by the passengers at the time of their transportation; **or**

(2) that is:

(A) designed to carry not more than sixteen (16) individuals, including the driver;

(B) held out for hire to members of the public who do not operate motor vehicles because of health or religious reasons;

(C) not operated over a definite route;

(D) a part of a commercial enterprise in the business of providing taxicab service; and

(E) operated intrastate only.

SECTION 4. IC 8-2.1-24-3, AS AMENDED BY P.L.42-2007, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. Except as provided in section 18 of this chapter, this chapter does not apply to the following:

(1) Motor vehicles used exclusively for carrying United States mail.

(2) Motor vehicles while being used or operated under the control, direction, and supervision of:

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(A) the United States government, the state, or a political subdivision; or

(B) the board of trustees of a state institution.

(3) Motor vehicles while transporting supplies, livestock feed ingredients, fertilizer, or fertilizing materials that are in transit to or from farms.

(4) Motor vehicles:

(A) controlled and operated by a farmer when used in the transportation of the farmer's agricultural commodities and products of those commodities or in the transportation of supplies to the farm;

(B) controlled and operated by a nonprofit agricultural cooperative association (or by a federation of agricultural cooperative associations if the federation does not possess greater powers or purposes than the cooperative associations);

(C) used in carrying property consisting of livestock or agricultural commodities (not including manufactured products) if the motor vehicles are not used in carrying:

(i) other property;

(ii) agricultural commodities; or

(iii) passengers;

for compensation; or

(D) used in carrying livestock feed or feed ingredients, if those products are transported to a site of agricultural productions or to a business enterprise engaged in the sale of agricultural goods to a person engaged in agricultural production.

This chapter shall not be construed to apply to motor vehicles owned, leased, controlled, or operated by a nonprofit cooperative association, either incorporated or unincorporated, that was in existence on July 6, 1961.

(5) Motor vehicles, commonly known as armored cars, used exclusively to transport, under written bilateral contract, coin, currency, bullion, securities, precious metals, jewelry, precious stones, money, legal tender, stocks and bonds, negotiable and nonnegotiable instruments and securities, postage and revenue stamps, and other valuable documents and rare objects.

(6) Motor vehicles used as taxicabs.

SECTION 5. IC 8-2.1-24-18, AS AMENDED BY P.L.21-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 18. (a) 49 CFR Parts 40, 375, 380, 382 through 387, 390 through 393, and 395 through 398 are incorporated into Indiana law by reference, and, except as provided in subsections (d),

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(e), (f), ~~and~~ (g), **and (k)**, must be complied with by an interstate and intrastate motor carrier of persons or property throughout Indiana. Intrastate motor carriers subject to compliance reviews under 49 CFR 385 shall be selected according to criteria determined by the superintendent which must include but are not limited to factors such as previous history of violations found in roadside compliance checks and other recorded violations. However, the provisions of 49 CFR 395 that regulate the hours of service of drivers, including requirements for the maintenance of logs, do not apply to a driver of a truck that is registered by the bureau of motor vehicles and used as a farm truck under IC 9-18, ~~or~~ a vehicle operated in intrastate construction or construction related service, or the restoration of public utility services interrupted by an emergency. Except as provided in subsection (i), intrastate motor carriers not operating under authority issued by the United States Department of Transportation shall comply with the requirements of 49 CFR 390.21(b)(3) by registering with the department of state revenue as an intrastate motor carrier and displaying the certification number issued by the department of state revenue preceded by the letters "IN". Except as provided in subsection (i), all other requirements of 49 CFR 390.21 apply equally to interstate and intrastate motor carriers.

(b) 49 CFR 107 subpart (F) and subpart (G), 171 through 173, 177 through 178, and 180, are incorporated into Indiana law by reference, and every:

- (1) private carrier;
- (2) common carrier;
- (3) contract carrier;
- (4) motor carrier of property, intrastate;
- (5) hazardous material shipper; and
- (6) carrier otherwise exempt under section 3 of this chapter;

must comply with the federal regulations incorporated under this subsection, whether engaged in interstate or intrastate commerce.

(c) Notwithstanding subsection (b), nonspecification bulk and nonbulk packaging, including cargo tank motor vehicles, may be used only if all the following conditions exist:

- (1) The maximum capacity of the vehicle is less than three thousand five hundred (3,500) gallons.
- (2) The shipment of goods is limited to intrastate commerce.
- (3) The vehicle is used only for the purpose of transporting fuel oil, kerosene, diesel fuel, gasoline, gasohol, or any combination of these substances.

All additional federal standards for the safe transportation of hazardous

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materials apply until July 1, 2000. After June 30, 2000, the maintenance, inspection, and marking requirements of 49 CFR 173.8 and Part 180 are applicable. In accordance with federal hazardous materials regulations, new or additional nonspecification cargo tank motor vehicles may not be placed in service under this subsection after June 30, 1998.

(d) For the purpose of enforcing this section, only:

(1) a state police officer or state police motor carrier inspector who:

(A) has successfully completed a course of instruction approved by the United States Department of Transportation; and

(B) maintains an acceptable competency level as established by the state police department; or

(2) an employee of a law enforcement agency who:

(A) before January 1, 1991, has successfully completed a course of instruction approved by the United States Department of Transportation; and

(B) maintains an acceptable competency level as established by the state police department;

on the enforcement of 49 CFR, may, upon demand, inspect the books, accounts, papers, records, memoranda, equipment, and premises of any carrier, including a carrier exempt under section 3 of this chapter.

(e) A person hired before September 1, 1985, who operates a motor vehicle intrastate incidentally to the person's normal employment duties and who is not employed as a chauffeur (as defined in IC 9-13-2-21(a)) is exempt from 49 CFR 391 as incorporated by this section.

(f) Notwithstanding any provision of 49 CFR 391 to the contrary, a person at least eighteen (18) years of age and less than twenty-one (21) years of age may be employed as a driver to operate a commercial motor vehicle intrastate. However, a person employed under this subsection is not exempt from any other provision of 49 CFR 391.

(g) Notwithstanding subsection (a) or (b), the following provisions of 49 CFR do not apply to private carriers of property operated only in intrastate commerce or any carriers of property operated only in intrastate commerce while employed in construction or construction related service:

(1) Subpart 391.41(b)(3) as it applies to physical qualifications of a driver who has been diagnosed as an insulin dependent diabetic, if the driver has applied for and been granted an intrastate medical waiver by the bureau of motor vehicles pursuant to this

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subsection. The same standards and the following procedures shall apply for this waiver whether or not the driver is required to hold a commercial driver's license. An application for the waiver shall be submitted by the driver and completed and signed by a certified endocrinologist or the driver's treating physician attesting that the driver:

(A) is not otherwise physically disqualified under Subpart 391.41 to operate a motor vehicle, whether or not any additional disqualifying condition results from the diabetic condition, and is not likely to suffer any diminution in driving ability due to the driver's diabetic condition;

(B) is free of severe hypoglycemia or hypoglycemia unawareness and has had less than one (1) documented, symptomatic hypoglycemic reaction per month;

(C) has demonstrated the ability and willingness to properly monitor and manage the driver's diabetic condition;

(D) has agreed to and, to the endocrinologist's or treating physician's knowledge, has carried a source of rapidly absorbable glucose at all times while driving a motor vehicle, has self monitored blood glucose levels one (1) hour before driving and at least once every four (4) hours while driving or on duty before driving using a portable glucose monitoring device equipped with a computerized memory; and

(E) has submitted the blood glucose logs from the monitoring device to the endocrinologist or treating physician at the time of the annual medical examination.

A copy of the blood glucose logs shall be filed along with the annual statement from the endocrinologist or treating physician with the bureau of motor vehicles for review by the driver licensing medical advisory board established under IC 9-14-4. A copy of the annual statement shall also be provided to the driver's employer for retention in the driver's qualification file, and a copy shall be retained and held by the driver while driving for presentation to an authorized federal, state, or local law enforcement official. Notwithstanding the requirements of this subdivision, the endocrinologist, the treating physician, the advisory board of the bureau of motor vehicles, or the bureau of motor vehicles may, where medical indications warrant, establish a short period for the medical examinations required under this subdivision.

(2) Subpart 396.9 as it applies to inspection of vehicles carrying or loaded with a perishable product. However, this exemption

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does not prohibit a law enforcement officer from stopping these vehicles for an obvious violation that poses an imminent threat of an accident or incident. The exemption is not intended to include refrigerated vehicles loaded with perishables when the refrigeration unit is working.

(3) Subpart 396.11 as it applies to driver vehicle inspection reports.

(4) Subpart 396.13 as it applies to driver inspection.

(h) For purposes of 49 CFR 395.1(l), "planting and harvesting season" refers to the period between January 1 and December 31 of each year. The intrastate commerce exception set forth in 49 CFR 395.1(l), as it applies to the transportation of agricultural commodities and farm supplies, is restricted to single vehicles and cargo tank motor vehicles with a capacity of not more than five thousand four hundred (5,400) gallons.

(i) The requirements of 49 CFR 390.21 do not apply to an intrastate carrier or a guest operator not engaged in interstate commerce and operating a motor vehicle:

(1) as a farm vehicle in connection with agricultural pursuits usual and normal to the user's farming operation; or

(2) for personal purposes unless the vehicle is operated either part time or incidentally in the conduct of a commercial enterprise.

(j) The superintendent of state police may adopt rules under IC 4-22-2 governing the parts and subparts of 49 CFR incorporated by reference under this section.

(k) This section does not apply to a motor vehicle being operated as a taxicab.

SECTION 6. IC 9-25-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. Except as provided in section 6 of this chapter, the minimum amounts of financial responsibility are as follows:

(1) Subject to the limit set forth in subdivision (2), twenty-five thousand dollars (\$25,000) for bodily injury to or the death of one (1) individual.

(2) Fifty thousand dollars (\$50,000) for bodily injury to or the death of two (2) or more individuals in any one (1) accident.

(3) Ten thousand dollars (\$10,000) for damage to or the destruction of property in one (1) accident.

(4) One million dollars (\$1,000,000) for a motor vehicle being operated as a taxicab (as defined in IC 8-2.1-17-16(2)).

SECTION 7. IC 36-9-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. A unit may regulate the services

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1 offered by persons who hold out for public hire the use of vehicles,
2 **including a motor vehicle being operated as a taxicab (as defined**
3 **in IC 8-2.1-17-16(2)).** This includes the power to fix the price to be
4 charged for that service.

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